

AMENDED IN SENATE JULY 7, 1997
AMENDED IN ASSEMBLY MAY 6, 1997
AMENDED IN ASSEMBLY APRIL 16, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1105

Introduced by Assembly Member Hertzberg

February 27, 1997

An act to amend Sections 255, 256, 256.5, 257, 258, 260, 261, 262, and 263 of, *and to add and repeal Section 660.5 of*, the Welfare and Institutions Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

AB 1105, as amended, Hertzberg. Juvenile hearing officers.

Existing law sets forth a comprehensive body of law governing proceedings in the juvenile court concerning delinquent minors. Existing law also specifies the powers and duties of traffic hearing officers for purposes of those provisions.

~~Existing law provides that a parent, guardian, or other person having control or charge of a minor who is in violation of the Compulsory Education Law, may be guilty of a crime, as specified. These charges may be heard in juvenile court. Existing law also provides that a minor may be adjudged a ward of the court on the basis of noncriminal conduct (so-called "status offenders"). Existing law provides that traffic hearing officers may hear and dispose of any case in~~

which a minor is alleged to have committed specified misdemeanors and any infraction.

This bill would delete references to traffic hearing officers and instead provide for the appointment and powers of juvenile hearing officers, as specified.

~~The bill would expand the jurisdiction of juvenile hearing officers to hear any case in which a minor is alleged to have committed various additional misdemeanors, as specified, as well as matters relating to minors alleged to be status offenders on the basis of truancy. It also would expand the jurisdiction of the juvenile court by authorizing juvenile hearing officers to hear matters relating to parental violation of the Compulsory Continuation Education Law, thus creating a state-mandated local program by imposing new duties on the juvenile justice system similar to those imposed by the creation of a new crime. The bill would also specifically prohibit a juvenile hearing officer from hearing or disposing of specified cases, including any crime involving a firearm, or any minor who has previously been declared a ward of the court or charged pursuant to this provision, as specified. The bill also would provide that a juvenile court would be known as the Informal Juvenile and Traffic Court when a juvenile hearing officer hears a case pursuant to these provisions.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Existing law provides that where a petition has been filed in juvenile court alleging that a minor has engaged in criminal conduct, notice of hearing and a copy of the petition shall be served, as specified.

The bill would create the Expedited Youth Accountability Program to be operative in Los Angeles County, and in other counties upon approval of the board of supervisors, as specified. The program would provide for the issuance of citations requiring the appearance of minors not detained for any felony or misdemeanor offense, and not cited to the Informal Juvenile and Traffic Court, before the juvenile court.

It would require participating counties to establish deadlines that would ensure that a case brought pursuant to these provisions would be heard within 60 days after the minor is cited. The citation would include a detailed description of the person and a written promise by that person to appear or a notice to appear, as specified. It also would require the issuance of such a citation to the parent or guardian of a minor. Failure to appear would be a misdemeanor. Because the bill would both establish a new crime and expand the definition of a crime by requiring specified statements to be made under penalty of perjury as well as impose new duties on local juvenile justice systems similar to those imposed by the creation of a new crime, it would establish a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 255 of the Welfare and~~
2 *SECTION 1. Section 255 of the Welfare and*
3 *Institutions Code is amended to read:*
4 255. The judge of the juvenile court, or in counties
5 having more than one judge of the juvenile court the
6 presiding judge of the juvenile court or the senior judge
7 if there is no presiding judge, may appoint one or more
8 persons of suitable experience, who may be judges of the
9 municipal court ~~or justices of the justice court~~ or a
10 probation officer or assistant or deputy probation officers,
11 to serve as ~~traffic~~ *juvenile* hearing officers on a full-time
12 or part-time basis. A hearing officer shall serve at the
13 pleasure of the appointing judge, and unless the
14 appointing judge makes his *or her* order terminating the
15 appointment of a hearing officer, ~~such~~ *the* hearing officer



1 shall continue to serve ~~as such~~ until the appointment of
2 his *or her* successor. The board of supervisors shall
3 determine whether any compensation shall be paid to
4 hearing officers, not otherwise employed by a public
5 agency or holding another public office, and shall
6 establish the amounts and rates thereof. An appointment
7 of a probation officer, assistant probation officer, or
8 deputy probation officer as a ~~traffic~~ *juvenile* hearing
9 officer may be made only with the consent of the
10 probation officer. *A juvenile court shall be known as the*
11 *Informal Juvenile and Traffic Court when a hearing*
12 *officer appointed pursuant to this section hears a case*
13 *specified in Section 256.*

14 *SEC. 2. Section 256 of the Welfare and Institutions*
15 *Code is amended to read:*

16 256. Subject to the orders of the juvenile court, a
17 ~~traffic~~ *juvenile* hearing officer may hear and dispose of
18 any case in which a minor under the age of 18 years as of
19 the date of the alleged offense is charged with (1) any
20 violation of the Vehicle Code not declared to be a felony,
21 (2) a violation of subdivision (m) of Section 602 of the
22 Penal Code, (3) a violation of the Fish and Game Code
23 not declared to be a felony, (4) a violation of any of the
24 equipment and registration provisions of the Harbors and
25 Navigation Code, (5) a violation of any provision of state
26 or local law relating to traffic offenses, loitering or curfew,
27 or evasion of fares on a public transportation system, as
28 defined by Section 99211 of the Public Utilities Code, (6)
29 a violation of Section 27176 of the Streets and Highways
30 Code, (7) a violation of Section 640 or 640a of the Penal
31 Code, (8) a violation of the rules and regulations
32 established pursuant to Sections 5003 and 5008 of the
33 Public Resources Code, (9) a violation of Section 33211.6
34 of the Public Resources Code, (10) a violation of Section
35 25658, 25658.5, 25661, or 25662 of the Business and
36 Professions Code, (11) a violation of subdivision (f) of
37 Section 647 of the Penal Code, (12) a misdemeanor
38 violation of Section 594 of the Penal Code, involving
39 defacing property with paint or any other liquid, (13) a
40 violation of subdivision (b), (d), or (e) of Section 594.1 of

1 the Penal Code, (14) a violation of subdivision (b) of
2 Section 11357 of the Health and Safety Code, ~~or~~ (15) any
3 infraction, *or (16) any misdemeanor for which the minor*
4 *is cited to appear by a probation officer pursuant to*
5 *subdivision (f) of Section 660.5.*

6 SEC. 3. Section 256.5 of the Welfare and Institutions
7 Code is amended to read:

8 256.5. A ~~traffic~~ juvenile hearing officer may request
9 the juvenile court judge or referee to issue a warrant of
10 arrest against a minor who is issued and signs a written
11 notice to appear for any violation listed in Section 256 and
12 who fails to appear at the time and place designated in the
13 notice. The juvenile court judge or referee may issue and
14 have delivered for execution a warrant of arrest against
15 a minor within 20 days after the minor's failure to appear
16 as promised or within 20 days after the minor's failure to
17 appear after a lawfully granted continuance of his or her
18 promise to appear. *A juvenile hearing officer who is also*
19 *a referee or juvenile court judge may personally issue the*
20 *warrant of arrest.*

21 SEC. 4. Section 257 of the Welfare and Institutions
22 Code is amended to read:

23 257. (a) With the consent of the minor, a hearing
24 before a ~~traffic~~ juvenile hearing officer, or a hearing
25 before a referee or a judge of the juvenile court, where
26 the minor is charged with a traffic offense or a nontraffic
27 offense as specified in this section, may be conducted
28 upon an exact legible copy of a written notice given
29 pursuant to Article 2 (commencing with Section 40500)
30 of Chapter 2 of Division 17 or Section 41103 of the Vehicle
31 Code, or an exact legible copy of a written notice given
32 pursuant to Chapter 5C (commencing with Section
33 853.6) of Title 3 of Part 2 of the Penal Code when the
34 offense charged is a violation listed in Section 256, *or an*
35 *exact legible copy of a citation as set forth in subdivision*
36 *(e) of Section 660.5, in lieu of a petition as provided in*
37 *Article 16 (commencing with Section 650).*

38 (b) *Prior to the hearing, the judge, referee, or juvenile*
39 *hearing officer may request the probation officer to*
40 *commence a proceeding as provided in Article 16*

1 *(commencing with Section 650), in lieu of a hearing in*
2 *Informal Juvenile and Traffic Court.*

3 *SEC. 5. Section 258 of the Welfare and Institutions*
4 *Code is amended to read:*

5 258. (a) Upon a hearing conducted in accordance
6 with Section 257, and upon either an admission by the
7 minor of the commission of a violation charged, or a
8 finding that the minor did in fact commit the violation,
9 the judge, referee, or ~~traffic juvenile~~ hearing officer may
10 do any of the following:

11 (1) Reprimand the minor and take no further action.

12 ~~(2) Request the probation officer to commence a~~
13 ~~proceeding as provided in Article 16 (commencing with~~
14 ~~Section 650).~~

15 ~~(3)~~

16 (2) Direct that the probation officer undertake a
17 program of supervision of the minor for a period not to
18 exceed six months, in addition to or in place of the
19 following orders.

20 ~~(4)~~

21 (3) Order that the minor pay a fine up to the amount
22 that an adult would pay for the same violation, unless the
23 violation is otherwise specified within this section, in
24 which case the fine shall not exceed two hundred fifty
25 dollars (\$250). This fine may be levied in addition to or in
26 place of the following orders and the court may waive any
27 or all of this fine, if the minor is unable to pay. In
28 determining the minor's ability to pay, the court shall not
29 consider the ability of the minor's family to pay.

30 ~~(5) Make any or all of the following orders with respect~~
31 ~~to a traffic violation which is not charged as a felony:~~

32 ~~(A) That~~

33 (4) *Subject to the minor's right to a restitution hearing,*
34 *order that the minor pay restitution to the victim, in lieu*
35 *of all or a portion of the fine specified in paragraph (3).*
36 *The total dollar amount of the fine, restitution, and any*
37 *program fees ordered pursuant to paragraph (9) shall not*
38 *exceed the maximum amount which may be ordered*
39 *pursuant to paragraph (3).*

1 (5) *Order that* the driving privileges of the minor be
2 suspended or restricted as provided in the Vehicle Code
3 or, notwithstanding Section 13203 of the Vehicle Code or
4 any other provision of law, when the Vehicle Code does
5 not provide for the suspension or restriction of driving
6 privileges, that, in addition to any other order, the driving
7 privileges of the minor be suspended or restricted for a
8 period of not to exceed 30 days.

9 ~~(B) That~~

10 (6) *Order that* the minor attend traffic school over a
11 period not to exceed 60 days *if the violation involved a*
12 *traffic offense.*

13 ~~(C) That~~

14 (7) *Order that* the minor produce satisfactory
15 evidence that the vehicle or its equipment has been made
16 to conform with the requirements of the Vehicle Code
17 pursuant to Section 40150 of the Vehicle Code *if the*
18 *violation involved an equipment violation.*

19 ~~(D) That~~

20 (8) *Order that* the minor perform community service
21 work in a public entity or any private nonprofit entity, for
22 not more than 50 hours over a period of 60 days, during
23 times other than his or her hours of school attendance or
24 employment. Work performed pursuant to this
25 subparagraph shall not exceed 30 hours during any 30-day
26 period. The time frames established by this subparagraph
27 shall not be modified except in unusual cases where the
28 interests of justice would best be served. When the order
29 to work is made by a referee or a traffic hearing officer,
30 it shall be approved by a judge of the juvenile court.

31 For the purposes of this subparagraph, a judge, referee,
32 or ~~traffic~~ *juvenile* hearing officer shall not, without the
33 consent of the minor, order the minor to perform work
34 with a private nonprofit entity that is affiliated with any
35 religion.

36 ~~(6)~~

37 (9) *In the case of a misdemeanor, order that the minor*
38 *participate in and complete a counseling program, a drug*
39 *treatment program, if the offense involved a violation of*
40 *a controlled substance law, or an educational program, if*

1 *those programs are available. Any fees for participation*
2 *shall be subject to the right to a hearing as the minor's*
3 *ability to pay and shall not, together with any fine or*
4 *restitution order, exceed the maximum amount that may*
5 *be ordered pursuant to paragraph (3).*

6 *(10) Require that the minor attend a school program*
7 *without unexcused absence.*

8 *(11) If the offense is a misdemeanor committed*
9 *between 10 p.m. and 6 a.m., require that the minor be at*
10 *his or her legal residence at hours to be specified by the*
11 *juvenile hearing officer between the hours of 10 p.m. and*
12 *6 a.m., unless the minor is accompanied by his or her*
13 *parent, guardian, or other person in charge of the minor.*
14 *The maximum length of an order made pursuant to this*
15 *paragraph shall be six months from the effective date of*
16 *the order.*

17 *(12) Make any or all of the following orders with*
18 *respect to a violation of the Fish and Game Code which*
19 *is not charged as a felony:*

20 *(A) That the fishing or hunting license involved be*
21 *suspended or restricted.*

22 *(B) That the minor work in a park or conservation*
23 *area for a total of not to exceed 20 hours over a period not*
24 *to exceed 30 days, during times other than his or her hours*
25 *of school attendance or employment.*

26 *(C) That the minor forfeit, pursuant to Section 12157*
27 *of the Fish and Game Code, any device or apparatus*
28 *designed to be, and capable of being, used to take birds,*
29 *mammals, fish, reptiles, or amphibia and which was used*
30 *in committing the violation charged. The judge, referee,*
31 *or traffic hearing officer shall, if the minor committed an*
32 *offense which is punishable under Section 12008 of the*
33 *Fish and Game Code, order the device or apparatus*
34 *forfeited pursuant to Section 12157 of the Fish and Game*
35 *Code.*

36 ~~(7)~~

37 *(13) If the violation charged is of an ordinance of a city,*
38 *county, or local agency relating to loitering, curfew, or*
39 *fare evasion on a public transportation system, as defined*
40 *by Section 99211 of the Public Utilities Code, or is a*

1 violation of Section 640 or 640a of the Penal Code, make
2 the order that the minor shall perform community
3 service for a total time not to exceed 20 hours over a
4 period not to exceed 30 days, during times other than his
5 or her hours of school attendance or employment.

6 (b) The judge, referee, or ~~traffic~~ juvenile hearing
7 officer shall retain jurisdiction of the case until all orders
8 made under this section have been fully complied with.

9 *SEC. 6. Section 260 of the Welfare and Institutions*
10 *Code is amended to read:*

11 260. A ~~traffic~~ juvenile hearing officer shall promptly
12 furnish a written report of his findings and orders to the
13 clerk of the juvenile court. The clerk of the juvenile court
14 shall promptly transmit an abstract of such findings and
15 orders to the Department of Motor Vehicles.

16 *SEC. 7. Section 261 of the Welfare and Institutions*
17 *Code is amended to read:*

18 261. Subject to the provisions of Section 262, all orders
19 of a ~~traffic~~ juvenile hearing officer shall be immediately
20 effective.

21 *SEC. 8. Section 262 of the Welfare and Institutions*
22 *Code is amended to read:*

23 262. Upon motion of the minor or his parent or
24 guardian for good cause, or upon his own motion, a judge
25 of the juvenile court may set aside or modify any order of
26 a ~~traffic~~ juvenile hearing officer, or may order or himself
27 conduct a rehearing. If the minor or parent or guardian
28 has made a motion that the judge set aside or modify the
29 order or has applied for a rehearing, and the judge has not
30 set aside or modified the order or ordered or conducted
31 a rehearing within 10 days after the date of the order, the
32 motion or application shall be deemed denied as of the
33 expiration of such period.

34 *SEC. 9. Section 263 of the Welfare and Institutions*
35 *Code is amended to read:*

36 263. At any time prior to the final disposition of a
37 hearing pursuant to Section 257, the judge, referee, or
38 ~~traffic~~ juvenile hearing officer may, on motion of the
39 minor, his parent, or guardian, or on its own motion,
40 transfer the case to the county of the minor's residence for

1 further proceedings pursuant to Sections 258, 260, 261,
2 and 262.

3 *SEC. 10. Section 660.5 is added to the Welfare and*
4 *Institutions Code to read:*

5 660.5. (a) *This section shall be known as the*
6 *Expedited Youth Accountability Program. It shall be*
7 *operative in the superior court in Los Angeles County. It*
8 *shall also be operative in any other county in which a*
9 *committee consisting of the sheriff, the chief probation*
10 *officer, the district attorney, the public defender, and the*
11 *presiding judge of the superior court votes to participate*
12 *in the program, upon approval by the board of*
13 *supervisors.*

14 (b) *It is the intent of the Legislature to hold*
15 *non-detained, delinquent youth accountable for their*
16 *crimes in a swift and certain manner. It is the further*
17 *intent of the Legislature that probation departments*
18 *participating in an Expedited Youth Accountability*
19 *Program conduct a risk and needs assessment for each*
20 *minor to assist in determining and facilitating the*
21 *appropriate disposition of each case within the program.*

22 (c) *Each county participating in the Expedited Youth*
23 *Accountability Program shall establish agreed upon time*
24 *deadlines for law enforcement, probation, district*
25 *attorney, and court functions which shall assure that a*
26 *case which is to proceed pursuant to this section shall be*
27 *ready to be heard within 60 days after the minor is cited*
28 *to the court and that the notice and petition required*
29 *under Sections 658 and 659 be served, and a copy*
30 *provided to the public defender's office, at least 72 hours*
31 *prior to the hearing.*

32 (d) (1) *Notwithstanding Section 660, if a minor is not*
33 *detained for any misdemeanor or felony offense and is not*
34 *cited to Informal Juvenile and Traffic Court pursuant to*
35 *paragraphs (1) to (15), inclusive, of Section 256 and*
36 *Section 853.6a of the Penal Code, the peace officer or*
37 *probation officer releasing the minor shall issue a citation*
38 *and obtain a written promise to appear in juvenile court,*
39 *or record the minor's refusal to sign the promise to appear*
40 *and serve a notice to appear in juvenile court. The*

1 appearance shall not be set for more than 60 calendar
2 days nor less than 10 calendar days from the issuance of
3 the citation. If the 60th day falls on a court holiday, the
4 appearance date shall be on the next date that the court
5 is in session. The date set for the appearance of the minor
6 shall allow for sufficient time for the probation
7 department to evaluate eligible minors for informal
8 handling under Section 654 or any other disposition
9 provided by law. However, nothing in this subdivision
10 shall be construed to limit Sections 653.1 and 653.5.

11 (2) The original citation and promise or notice to
12 appear shall be retained by the court if a petition is filed.
13 In addition, there shall be three copies of the citation and
14 promise or notice to appear, which shall be distributed as
15 follows:

16 (A) One copy shall be provided to the person to whom
17 the citation is issued.

18 (B) One copy shall be provided to the probation
19 department if the minor is retained by that department
20 for informal handling.

21 (C) If a petition is requested, the second copy of the
22 citation shall go to the district attorney along with the
23 petition request, and the third copy shall be retained by
24 the agency issuing the citation.

25 (3) The original citation shall include a copy of all
26 police reports relating to the citation and a petition
27 request. The citation shall contain the following
28 information:

29 (A) Date, time, and location of the issuance of the
30 citation.

31 (B) The name, address, driver's license number, age,
32 date of birth, sex, race, height, weight, hair color, and
33 color of eyes of the person to whom the citation is issued.

34 (C) A list of the offenses and the location where the
35 offense or offenses were committed.

36 (D) Date and time of the required court appearance.

37 (E) Address of the juvenile court where the person to
38 whom the citation is issued is to appear.

39 (F) A preprinted promise to appear which is signed by
40 the person to whom the citation is issued, or where the

1 person refused to sign the written promise, the notice to
2 appear.

3 (G) A preprinted declaration under penalty of perjury
4 that the above information is true and correct, signed by
5 the peace officer or probation officer issuing the citation.

6 (H) A statement that the failure to appear is
7 punishable as a misdemeanor.

8 (e) The minor's parent or guardian shall be issued a
9 citation in the same manner as described in subdivision
10 (b).

11 (f) The willful failure to appear in court pursuant to a
12 citation or notice issued as required pursuant to this
13 section is a misdemeanor.

14 (g) Notwithstanding Section 662 or 663, if a person to
15 whom a citation has been issued pursuant to this section
16 fails to appear, a warrant of arrest shall issue for that
17 person. A warrant of arrest shall also issue for a person
18 who is not personally served where efforts to effect
19 personal service have been unsuccessful, upon an
20 affidavit, under penalty of perjury, signed by a peace
21 officer that all reasonable efforts to locate the person have
22 failed or that the person has willfully evaded service of
23 process.

24 (h) (1) Notwithstanding Section 654 or any other
25 provision of law, a probation officer in a county in which
26 this section is applicable may, in lieu of filing a petition or
27 proceeding under Section 654, issue a citation in the form
28 described in subdivision (b) to the Informal Juvenile and
29 Traffic Court pursuant to Section 256 for any
30 misdemeanor except the following:

31 (A) Any crime involving a firearm.

32 (B) Any crime involving violence.

33 (C) Any crime involving a sex-related offense.

34 (D) Any minor who has previously been declared a
35 ward of the court.

36 (E) Any minor who has previously been referred to
37 juvenile traffic court pursuant to this section.

38 (2) This subdivision shall apply only if the case will be
39 heard by a juvenile hearing officer who meets the
40 minimum qualifications of a juvenile court referee and

1 only in those counties in which probation department
2 citation to Informal Juvenile and Traffic Court is made a
3 part of the Expedited Youth Accountability Program,
4 pursuant to the procedure for approval set forth in
5 subdivision (a).

6 (i) In the event that the probation officer places a
7 minor on informal probation or cites the minor to
8 Informal Juvenile and Traffic Court, or elects some other
9 lawful disposition not requiring the hearing set forth in
10 subdivision (b), the probation officer shall so inform the
11 minor and his or her parent or guardian that a court
12 appearance is not required.

13 (j) Except as modified by this section, the
14 requirements of this chapter shall remain in full force and
15 effect.

16 (k) This section shall be operative on January 1, 1998,
17 for the Pomona Juvenile Court in Los Angeles County.
18 This section shall be operative on July 1, 1998, for all other
19 juvenile courts in Los Angeles County and all other
20 applicable counties.

21 (l) It is the intent of the Legislature that an interim
22 hearing be conducted by appropriate policy committees
23 in the Legislature prior to January 1, 2002, to examine the
24 success of the program in expediting punishment for
25 juvenile offenses, reducing delinquent behavior, and
26 promoting greater accountability on the part of juvenile
27 offenders.

28 (m) This section shall be repealed on January 1, 2003,
29 unless that date is deleted or extended by later legislation
30 enacted on or before that date.

31 SEC. 11. No reimbursement is required by this act
32 pursuant to Section 6 of Article XIII B of the California
33 Constitution because the only costs that may be incurred
34 by a local agency or school district will be incurred
35 because this act creates a new crime or infraction,
36 eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section
38 17556 of the Government Code, or changes the definition
39 of a crime within the meaning of Section 6 of Article
40 XIII B of the California Constitution.

1 *Notwithstanding Section 17580 of the Government*
2 *Code, unless otherwise specified, the provisions of this act*
3 *shall become operative on the same date that the act*
4 *takes effect pursuant to the California Constitution.*

5
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7 **All matter omitted in this version of the**
8 **bill appears in the bill as amended in the**
9 **Assembly, May 6, 1997 (JR 11)**
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